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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,047	05/03/2001	Magdalena Blaszczyk-Thurin	WST93AUSA	8220
270	7590	10/24/2003	EXAMINER	
HOWSON AND HOWSON ONE SPRING HOUSE CORPORATION CENTER BOX 457 321 NORRISTOWN ROAD SPRING HOUSE, PA 19477				SNEDDEN, SHERIDAN
ART UNIT		PAPER NUMBER		
		1653		
DATE MAILED: 10/24/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/831,047	BLASZCZYK-THURIN, MAGDALENA
<b>Examiner</b>	<b>Art Unit</b>	
Sheridan K Snedden	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## **Disposition of Claims**

4)  Claim(s) 1-9 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-5 and 9 is/are rejected.

7)  Claim(s) 6-8 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some \* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1)  Notice of References Cited (PTO-892) 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_ .  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948) 5)  Notice of Informal Patent Application (PTO-152)  
3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6)  Other: \_\_\_\_\_

## DETAILED ACTION

1. Applicant's cancellation of claims 10-43 is acknowledged. Applicant's election of invention I, claims 1-9 is acknowledged. The additional election requirement for species is vacated. Election was made **without** traverse in amendment filed 14 August 2003. Claims 1-9 are pending.

### *Claim Objections*

2. Claims 4-6 depend from rejected claims 4 and 5 but are otherwise allowable.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Heavner *et al.* (US Patent 5,464,935). Heavner *et al.* teaches peptides which bind of selectins in a physiological acceptable carrier (column 4, lines 42+; column 1, lines 7+). The claims are drawn to compositions that contain peptide; the peptides are effective to modulate binding of selectins to receptor or ligands. The claims are sufficient in scope to encompass the peptides disclosed by Heavner *et al.*. Thus, the reference anticipates the claimed invention.

5. Claims 1-5, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Esko *et al.* (US Patent 5,639,734). Esko *et al.* synthesize glycosides that mimic sialyl Lewis X (see

Example 9), and pharmaceutical compositions thereto (see claim 13). Thus, the reference anticipates the claimed invention.

***Conclusion***

6. Claims 6-8 are directed to allowable subject matter as the sequences are free of the prior art.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheridan K Snedden whose telephone number is (703) 305-4843.

The examiner can normally be reached on Monday - Friday, 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (703) 308-2923. The fax phone number for regular communications to the organization where this application or proceeding is assigned is (703) 746-3975.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

SKS  
October 16, 2003

SKS

*Karen Cochrane Carlson RD*  
KAREN COCHRANE CARLSON, PH.D  
PRIMARY EXAMINER